

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

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ROY D. MORAGA,

Case No. 3:19-cv-00635-MMD-CLB

Plaintiff,

ORDER

v.

DR. ALLEY, *et al.*,

Defendants.

*Pro se* Plaintiff Roy D. Moraga brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (ECF No. 40 (“R&R”)) of United States Magistrate Judge Carla L. Baldwin, recommending that the Court deny Moraga’s motion for mandatory injunction (ECF No. 36 (“Motion”)). Moraga had until January 19, 2022, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will deny Moraga’s Motion.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).


Because there is no objection, the Court need not conduct de novo review, and is satisfied that Judge Baldwin did not clearly err. Judge Baldwin recommends that the Court

1 deny Moraga's Motion because (1) the allegations in his Motion are premised on new  
2 issues, (2) because Moraga failed to show irreparable harm, success on the merits, and  
3 that the balance of equities tip in his favor, and (3) because the Motion is moot. (ECF No.  
4 40 at 5-6.) Judge Baldwin correctly found that Moraga's Motion relates to allegations of  
5 rectal bleeding, which are new and distinct from the gallstone issues he alleged in the  
6 Complaint. (*Id.*) See *Padilla v. Nevada*, Case No. 3:08-cv-410-LRH (RAM), 2011 WL  
7 2746653, at \*8 (D. Nev. June 3, 2011); *Mitchell v. Haviland*, Case No. 2:09-cv-3012 JAM  
8 KJN P, 2014 WL 458218, at \*2 (E.D. Cal. Feb. 4, 2014). Moraga also failed to provide  
9 any medical records from doctors and medical personnel that demonstrate immediate,  
10 irreparable harm. (ECF Nos. 36, 40 at 6.) See *Winter v. Nat. Res. Def. Council, Inc.*, 555  
11 U.S. 7, 20 (2008). Finally, according to Defendant, Moraga's request for a colonoscopy  
12 has been submitted to the Utilization Review panel, and is thus moot. (ECF Nos. 37 at 3,  
13 40 at 6.) The Court therefore agrees with Judge Baldwin and adopts the R&R in full.

14 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF  
15 No. 40) is accepted and adopted in full.

16 It is further ordered that Moraga's motion for a mandatory injunction (ECF No. 36)  
17 is denied.

18 DATED THIS 31<sup>st</sup> Day of January 2022.

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21 MIRANDA M. DU  
22 CHIEF UNITED STATES DISTRICT JUDGE  
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